

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2305154
Decision Date:	07/31/2023	Hearing Date:	07/24/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:

Via telephone



Pro se

Appearance for MassHealth:

Via telephone

Ana Duverge-Roy



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Dismissed	Issue:	Eligibility; Over Income
Decision Date:	07/21/2023	Hearing Date:	07/24/2023
MassHealth's Rep.:	Ana Duverge-Roy	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Springfield MassHealth Enrollment Center Room 2 (Remote)	Aid Pending:	No

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated June 4, 2023, MassHealth denied the Appellant's application for MassHealth benefits because MassHealth determined that the Appellant was over-income. (Exhibit 1). The Appellant filed this appeal in a timely manner on June 16, 2023. (See, 130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (See, 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's application for MassHealth benefits because it determined that she was over the income guidelines.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant is over the income guidelines.

Summary of Evidence

A MassHealth representative appeared at the hearing via telephone and testified as follows: in early June of this year, the Appellant completed her annual renewal online. Upon accessing her account, the Appellant changed her income. Currently, the Appellant's income is over the Federal Poverty Level (FPL) by 360.54% which is the reason that she received the June 4, 2023 denial notice. (See, Exhibit 1). The MassHealth representative explained that she would like to go over the Appellant's income to ensure her current employment and annual income were correctly submitted.

The Appellant appeared at the hearing via telephone and testified that when she entered her income she did so incorrectly. The Appellant explained that she previously worked for 3 different restaurants but currently works at 2 restaurants. Further, the restaurants changed hands and it became very confusing. The Appellant testified that she is presently employed as a waitress at one restaurant that is open year-round and currently works 30 hours per week. However, come September, her employment hours decrease to approximately 10-15 hours per week because the busy season (summer) ends. The Appellant has been working at this restaurant since September of 2022. The Appellant is also waitressing at another restaurant, that recently opened in April of this year. At that time, the Appellant also began to fill out her MassHealth renewal online. Initially, the Appellant waitressed during the lunch rush, however, her restaurant manager has since eliminated lunch hours. The Appellant's manager also has a seasonal food truck located at a nearby beach, where she currently works approximately 20 hours per week.

The MassHealth representative made inquiry as to the Appellant's present income for each employment position. In response, the Appellant testified that she grossed \$ 1000 waitressing at one restaurant and \$ 250 at the seasonal food truck last week. The Appellant further explained that she will not earn as much waitressing come September. Further, it is unclear whether she will be employed with the second restaurant in September because that restaurant is brand new. The MassHealth representative next inquired about the Appellant's annual income for 2023. She explained that the Appellant's expected income, according to her notes, is \$ 64,995.00. The Appellant testified that she did not believe that figure was accurate. She explained that she asked her boss at the restaurant she has been waitressing at since last September to look up the average income of someone that worked similar hours to the Appellant last year. That employee grossed \$ 42,000.00 last year. As to the second restaurant (food truck), the Appellant explained that she is unclear what she will earn for 2023 because it is a brand-new restaurant. Moreover, the Appellant is not sure whether her position is only seasonal at this restaurant (food truck) or otherwise.

The MassHealth representative explained that the Appellant has the option of submitting her 2022 tax returns to MassHealth, including all W2 forms and attachments, so that she can update the Appellant's income to accurately reflect her tax returns. The Appellant expressed her appreciation

for MassHealth assistance in previous years and agreed to submit her 2022 tax return by mail.¹

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The Appellant is under the age of 65 and a MassHealth member. (Exhibit 3).
2. In June of this year, the Appellant completed her MassHealth annual renewal online. (Testimony).
3. The Appellant changed her income while completing her renewal. (Testimony).
4. On or about June 4, 2023, MassHealth sent a denial notice to the Appellant after determining that the Appellant was over income. (Testimony; Exhibit 1).
5. The Appellant timely appealed on June 16, 2023. (Exhibit 2).
6. The Appellant incorrectly entered her income upon completing her renewal application. (Testimony).
7. The Appellant will submit her 2022 tax returns to MassHealth via mail so that her income can be accurately verified. (Testimony).

Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (See, 130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the Appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. *Id.*

With respect to 130 CMR 610.035, the Board of Hearings will dismiss a hearing when....

- (1) the request is not received within the time frame specified in 130 CMR 610.015;
- (2) the request is withdrawn by the appellant;
- (3) the sole issue is one of state or federal law requiring automatic change in assistance for classes

¹ Upon inquiry at the hearing, the MassHealth representative explained that the Appellant can mail her 2022 tax return to Health Insurance Processing Center, P.O. Box 4405, Taunton, MA 02780 to the attention of the MassHealth representative.

of members;

(4) the stated reason for the request does not constitute grounds for appeal as set forth in 130 CMR 610.032. Without limiting the generality of the foregoing, except as provided in 130 CMR 610.032(A)(11), no provider decision or action including, but not limited to, a provider determination about whether or the extent to which a service is medically necessary constitutes an appealable action hereunder;

(5) the stated reason for the hearing request is outside the scope of 130 CMR 610.000 as set forth in 130 CMR 610.003;

(6) BOH has conducted a hearing and issued a decision on the same appealable action arising out of the same facts that constitute the basis of the request;

(7) the party requesting the hearing is not an applicant, member, or resident as defined in 130 CMR 610.004;

(8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;

(9) BOH learns that the applicant or member has passed away prior to the date of filing and there is no full compliance with 130 CMR 610.016(B) within ten days of a BOH request;

(10) BOH learns that the applicant or member has passed away prior to the date of filing and scheduling a hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B); or

(11) the appellant fails to appear at a scheduled hearing.

....

(130 CMR 610.035(A)).

In the present case, the Appellant was satisfied with the explanation given at the hearing and agreed to submit her 2022 tax return to MassHealth so that her income is accurately verified. Because the appeal issue has been resolved in the Appellant's favor, there is nothing left to dispute before the hearing officer. For the above-stated reasons, this appeal is dismissed. ²

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

² Any subsequent MassHealth notices received by the Appellant may be separately appealed.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186